

**The  
Intercept**

# THE BIGGEST SECRET

## My Life as a New York Times Reporter in the Shadow of the War on Terror

Photo Illustration: The Intercept



James Risen

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I was sitting in the nearly empty restaurant of the Westin Hotel in Alexandria, Virginia, getting ready for a showdown with the federal government that I had been trying to avoid for more than seven years. The Obama administration was demanding that I reveal the confidential sources I had relied on for a chapter about a botched CIA operation in my 2006 book, “State of War.” I had also written about the CIA operation for the New York Times, but the paper’s editors had suppressed the story at the government’s request. It wasn’t the only time they had done so.

# 1

## A MARKETPLACE OF SECRETS

Bundled against the freezing wind, my lawyers and I were about to reach the courthouse door when two news photographers launched into a perp-walk shoot. As a reporter, I had witnessed this classic scene dozens of times, watching in bemusement from the sidelines while frenetic photographers and TV crews did their business. I never thought I would be the perp, facing those whirring cameras.

As I walked past the photographers into the courthouse that morning in January 2015, I saw a group of reporters, some of whom I knew personally. They were here to cover my case, and now they were waiting and watching me. I felt isolated and alone.

My lawyers and I took over a cramped conference room just outside the courtroom of U.S. District Judge Leonie Brinkema, where we waited for her to begin the pretrial hearing that would determine my fate. My lawyers had been working with me on this case for so many years that they now felt more like friends. We often engaged in gallows humor about what it was going to be like for me once I went to jail. But they had used all their skills to make sure that didn't happen and had even managed to keep me out of a courtroom and away from any questioning by federal prosecutors.

Until now.

My case was part of a broader crackdown on reporters and whistleblowers that had begun during the presidency of George W. Bush and continued far more aggressively under the Obama administration, which had already prosecuted more leak cases than all previous administrations combined. Obama officials seemed determined to use criminal leak investigations to limit reporting on national security. But the crackdown on leaks only applied to low-level dissenters; top officials caught up in leak investigations, like former CIA Director David Petraeus, were still treated with kid gloves.

Initially, I had succeeded in the courts, surprising many legal experts. In the U.S. District Court for the Eastern District of Virginia, Brinkema had sided with me when the government repeatedly subpoenaed me to testify before a grand jury. She had ruled in my favor again by quashing a trial subpoena in the case of Jeffrey Sterling, a former CIA officer who the government accused of being a source for the story about the ill-fated CIA operation. In her rulings, Brinkema determined that there was a “reporter’s privilege” – at least a limited one – under the First Amendment that gave journalists the right to protect their sources, much as clients and patients can shield their private communications with lawyers and doctors.

But the Obama administration appealed her 2011 ruling quashing the trial subpoena, and in 2013, the 4th Circuit Court of Appeals, in a split decision, sided with the administration, ruling that there was no such thing as a reporter’s privilege. In 2014, the Supreme Court refused to hear my appeal, allowing the 4th Circuit ruling to stand. Now there was nothing legally stopping the Justice Department from forcing me to either reveal my sources or be jailed for contempt of court.

But even as I was losing in the courts, I was gaining ground in the court of public opinion. My decision to go to the Supreme Court had captured the attention of the nation’s political and media classes. Instead of

ignoring the case, as they had for years, the national media now framed it as a major constitutional battle over press freedom.

That morning in Alexandria, my lawyers and I learned that the prosecutors were frustrated by my writing style. In “[State of War: The Secret History of the CIA and the Bush Administration](#),” I didn’t include attribution for many passages. I didn’t explicitly say where I was getting my information, and I didn’t identify what information was classified and what wasn’t. That had been a conscious decision; I didn’t want to interrupt the narrative flow of the book with phrases explaining how I knew each fact, and I didn’t want to explicitly say how I had obtained so much sensitive information. If prosecutors couldn’t point to specific passages to prove I had relied on confidential sources who gave me classified information, their criminal case against Sterling might fall apart.

When I walked into the courtroom that morning, I thought the prosecutors might demand that I publicly identify specific passages in my book where I had relied on classified information and confidential sources. If I didn’t comply, they could ask the judge to hold me in contempt and send me to jail.

I was worried, but I felt certain that the hearing would somehow complete the long, strange arc I had been living as a national security investigative reporter for the past 20 years. As I took the stand, I thought about how I had ended up here, how much press freedom had been lost, and how drastically the job of national security reporting had changed in the post-9/11 era.



From top left to bottom right: Aldrich Ames, John I. Millis, John Deutch, Wen Ho Lee. Photo: AP, Getty Images

There's no press room at CIA headquarters, like there is at the White House. The agency doesn't hand out press passes that let reporters walk the halls, the way they do at the Pentagon. It doesn't hold regular press briefings, as the State Department has under most administrations. The one advantage that reporters covering the CIA have is time. Compared to other major beats in Washington, the CIA generates relatively few daily stories. You have more time to dig, more time to meet people and develop sources.

I started covering the CIA in 1995. The Cold War was over, the CIA was downsizing, and CIA officer Aldrich Ames had just been unmasked as a Russian spy. A whole generation of senior CIA officials was leaving Langley. Many wanted to talk.

I was the first reporter many of them had ever met. As they emerged from their insular lives at the CIA, they had little concept of what information would be considered newsworthy. So I decided to show more patience with sources than I ever had before. I had to learn to listen and let them talk about whatever interested them. They had fascinating stories to tell.

In addition to their experiences in spy operations, many had been involved in providing intelligence support at presidential summit meetings, treaty negotiations, and other official international conferences. I realized that these former CIA officers had been backstage at some of the most historic events over the last few decades and thus had a unique and hidden perspective on what had happened behind the scenes in American foreign policy. I began to think of these CIA officers like the title characters in Tom Stoppard's play "Rosencrantz and Guildenstern Are Dead," in which Stoppard reimagines "Hamlet" from the viewpoint of two minor characters who fatalistically watch Shakespeare's play from the wings.

While covering the CIA for the Los Angeles Times and later the New York Times, I found that patiently listening to my sources paid off in unexpected ways. During one interview, a source was droning on about a minor bureaucratic battle inside the CIA when he briefly referred to how then-President Bill Clinton had secretly given the green light to Iran to covertly ship arms to Bosnian Muslims during the Balkan wars. The man had already resumed talking about his bureaucratic turf war when I realized what he had just said and interrupted him, demanding that he go back to Iran. That led me to write [a series of stories](#) that prompted the House of Representatives to create a special select committee to investigate the covert Iran-Bosnia arms pipeline. Another source surprised me by volunteering a copy of the CIA's secret history of the agency's involvement in the 1953 coup in Iran. Up until then, the

CIA had insisted that many of the agency's internal documents from the coup had long since been lost or destroyed.

But one incident left me questioning whether I should continue as a national security reporter. In 2000, John Millis, a former CIA officer who had become staff director of the House Intelligence Committee, summoned me to his small office on Capitol Hill. After he closed the door, he took out a classified report by the CIA's inspector general and read it aloud, slowly, as I sat next to him. He repeated passages when I asked, allowing me to transcribe the report verbatim. The report concluded that top CIA officials had **impeded an internal investigation** into evidence that former CIA Director John Deutch had mishandled large volumes of classified material, placing it on personal computers in his home.

The story was explosive, and it angered top CIA officials.

Several months later, Millis killed himself. His death shook me badly. I didn't believe that my story had played a role, but as I watched a crowd of current and former CIA officials stream into the church in suburban Virginia where his funeral was held, I wondered whether I was caught up in a game that was turning deadly. (I have never before disclosed that Millis was the source for the Deutch story, but his death more than 17 years ago makes me believe there is no longer any purpose to keeping his identity a secret. In an interview for this story, Millis's widow, Linda Millis, agreed that there was no reason to continue hiding his role as my source, adding: "I don't believe there is any evidence that [leaking the Deutch report] had anything to do with John's death.")

Another painful but important lesson came from **my coverage of the case of Wen Ho Lee**, a Chinese-American scientist at Los Alamos National Laboratory, who in 1999 was suspected by the government of spying for China. After the government's espionage case against him collapsed, I was heavily criticized – including in **an editor's note** in the

New York Times – for having written stories that lacked sufficient caveats about flaws and holes in the government's case. The editor's note said that we should "have pushed harder to uncover weaknesses in the FBI case against Dr. Lee," and that "in place of a tone of journalistic detachment from our sources, we occasionally used language that adopted the sense of alarm that was contained in official reports and was being voiced to us by investigators, members of Congress and administration officials with knowledge of the case."

In hindsight, I believe the criticism was valid.

That bitter experience almost led me to leave the Times. Instead, I decided to stay. In the end, it made me much more skeptical of the government.



CIA Director George Tenet at FBI headquarters in Washington on Feb. 20, 2001. Photo: Rick Bowmer/AP

Success as a reporter on the CIA beat inevitably meant finding out government secrets, and that meant plunging headlong into the classified side of Washington, which had its own strange dynamics.

I discovered that there was, in effect, a marketplace of secrets in Washington, in which White House officials and other current and former bureaucrats, contractors, members of Congress, their staffers, and journalists all traded information. This informal black market helped keep the national security apparatus running smoothly, limiting nasty surprises for all involved. The revelation that this secretive subculture existed, and that it allowed a reporter to glimpse the government's dark side, was jarring. It felt a bit like being in the Matrix.

Once it became known that you were covering this shadowy world, sources would sometimes appear in mysterious ways. In one case, I received an anonymous phone call from someone with highly sensitive information who had read other stories I had written. The information from this new source was very detailed and valuable, but the person refused to reveal her identity and simply said she would call back. The source called back several days later with even more information, and after several calls, I was able to convince her to call at a regular time so I would be prepared to talk. For the next few months, she called once every week at the exact same time and always with new information. Because I didn't know who the source was, I had to be cautious with the information and never used any of it in stories unless I could corroborate it with other sources. But everything the source told me checked out. Then after a few months, she abruptly stopped calling. I never heard from her again, and I never learned her identity.

# **A top CIA official once told me that his rule of thumb for whether a covert operation should be approved was, “How will this look on the front page of the New York Times?”**

Disclosures of confidential information to the press were generally tolerated as facts of life in this secret subculture. The media acted as a safety valve, letting insiders vent by leaking. The smartest officials realized that leaks to the press often helped them, bringing fresh eyes to stale internal debates. And the fact that the press was there, waiting for leaks, lent some discipline to the system. A top CIA official once told me that his rule of thumb for whether a covert operation should be approved was, “How will this look on the front page of the New York Times?” If it would look bad, don’t do it. Of course, his rule of thumb was often ignored.

For decades, official Washington did next to nothing to stop leaks. The CIA or some other agency would feign outrage over the publication of a story it didn’t like. Officials launched leak investigations but only went through the motions before abandoning each case. It was a charade that both government officials and reporters understood.

As part of my legal case, my lawyers filed Freedom of Information Act requests with several government agencies seeking documents those agencies had about me. All the agencies refused to provide any documents related to my current leak case, but eventually the FBI began to turn over reams of documents about old leak investigations that had been conducted years earlier on other stories I had written. I was stunned to learn of them.

The documents revealed that the FBI gave code names to its leak investigations. One set of documents identified an investigation code-named “BRAIN STORM”; another, code-named “SERIOUS MONEY,” involved [a story I did in 2003](#) about how the Iraqi regime of Saddam Hussein had tried to reach a secret, last-minute deal with the Bush administration to avoid war. Yet the government had closed all these leak investigations without taking action against my sources or me, at least as far as I know.

Even after 9/11, government officials had a limited appetite for aggressively pursuing leak cases, and Justice Department and FBI officials had little interest in getting assigned to leak investigations. They knew they were dead-end cases. A June 19, 2003, FBI memo about BRAIN STORM shows it shared the fate of virtually all leak investigations of that era. The FBI’s Washington field office “has covered all logical leads, and no viable suspect has been identified,” the memo noted. “Based upon this situation, WFO is referring this matter back to FBIHQ for additional input and/or presenting this case to DOJ for closure.”

One reason that officials didn’t want to conduct aggressive leak investigations was that they regularly engaged in quiet negotiations with the press to try to stop the publication of sensitive national security stories. Government officials seemed to understand that a get-tough approach to leaks might lead to the breakdown of this informal arrangement.

At the time, I usually went along with these negotiations. About a year before 9/11, for instance, I learned that the CIA had sent case officers to Afghanistan to meet with Ahmed Shah Massoud, the leader of the rebel Northern Alliance, which was fighting the Taliban government. The CIA officers had been sent to try to convince Massoud to help the Americans

go after Osama bin Laden, who was then living in Afghanistan under the Taliban's protection.

When I called the CIA for comment, then-CIA Director George Tenet called me back personally to ask me not to run the story. He told me the disclosure would threaten the safety of the CIA officers in Afghanistan. I agreed.

I finally wrote [the story](#) after 9/11, but I later wondered whether it had been a mistake to hold it before the attacks on New York City and Washington. Independent investigations of 9/11 later concluded that the CIA's effort to target bin Laden before the attacks had been half-hearted. If I had reported the story before 9/11, the CIA would have been angry, but it might have led to a public debate about whether the United States was doing enough to capture or kill bin Laden. That public debate might have forced the CIA to take the effort to get bin Laden more seriously.

My experience with that story and subsequent ones made me much less willing to go along with later government requests to hold or kill stories. And that ultimately set me on a collision course with the editors at the New York Times, who were still quite willing to cooperate with the government.



President George W. Bush addresses the nation from the Oval Office of the White House in Washington, D.C., on March 19, 2003, announcing U.S. military airstrikes in Iraq. Photo: Alex Wong/Getty Images

## 2 YOU FURNISH THE PICTURES, I'LL FURNISH THE WAR

After the 9/11 attacks, the Bush administration began asking the press to kill stories more frequently. They did it so often that I became convinced the administration was invoking national security to quash stories that were merely politically embarrassing. In late 2002, for instance, I called the CIA for comment on a story about the existence of

a secret CIA prison in Thailand that had just been created to house Al Qaeda detainees, including Abu Zubaydah. In response, Bush administration officials called the Times and got the paper to kill the story. I disagreed with the paper's decision because I believed that the White House was just trying to cover up the fact that the CIA had begun to set up secret prisons. I finally reported the information a year later. (In 2014, the Senate Intelligence Committee's [report on the CIA's torture program](#) provided new insight into the consequences of the killed Thailand story. "In November 2002, after the CIA learned that a major U.S. newspaper knew that Abu Zubaydah was in Country [redacted], senior CIA officials, as well as Vice President Cheney, urged the newspaper not to publish the information," the 2014 report states. "While the U.S. newspaper did not reveal Country [redacted] as the location of Abu Zubaydah, the fact that it had the information, combined with previous media interest, resulted in the decision to close Detention Site Green.")

By 2002, I was also starting to clash with the editors over our coverage of the Bush administration's claims about pre-war intelligence on Iraq. My stories raising questions about the intelligence, particularly the administration's claims of a link between Iraq and Al Qaeda, were being cut, buried, or held out of the paper altogether.

**My stories raising questions about the administration's claims of a link between Iraq and Al Qaeda were being cut, buried, or held out of the paper altogether.**

## One of the few stories I

managed to get on the front page cast doubt on reports that an Iraqi intelligence officer had met with 9/11 plotter Mohamed Atta in Prague before the attacks on New York and Washington. But Doug Frantz, then the investigations editor in New York, felt that he had to sneak it onto Page 1. “Given the atmosphere among the senior editors at The Times, I was concerned that the story would not make it to page 1 on a day when everyone was convened around the table,” Frantz emailed me recently. “So I decided that it was too important to appear inside the paper and went ahead and offered it on a Sunday, a day when the senior editors weren’t often involved in the discussion.”

Then-Executive Editor Howell Raines was believed by many at the paper to prefer stories that supported the case for war. But Raines now says he was not pro-war, and that he did not object to putting my Prague story on the front page. “I never told anyone at any level on the Times that I wanted stories that supported the war,” he told me in an email.

Meanwhile, Judy Miller, an intense reporter who was based in New York but had sources at the highest levels of the Bush administration, was writing story after story that seemed to document the existence of Iraq’s weapons of mass destruction. Her stories were helping to set the political agenda in Washington.

Miller and I were friends – in fact, I was probably one of her closest friends in the Washington bureau at the time. In the year before 9/11, Miller worked on a remarkable series of stories about Al Qaeda that offered clear warnings about its new power and intent. In the months after 9/11, she and I both scrambled to document Al Qaeda’s role in the attacks and the counterterrorism response by the United States. We were both part of a team that won the [2002 Pulitzer Prize for Explanatory Reporting](#) for our coverage of terrorism and 9/11.

But in the months leading up to the March 2003 invasion of Iraq, while Miller and other Times reporters were landing a string of big stories that dazzled the editors, I was getting frustrated that so few of my sources in the intelligence community were willing to talk to me about what they thought of the Bush administration's case for war. I kept hearing quiet complaints that the White House was pressuring CIA analysts to cook the books and deliver intelligence reports that followed the party line on Iraq. But when I pressed, few were willing to provide specifics. Intermediaries would sometimes tell me that they were receiving anguished calls from CIA analysts, but when I asked to talk to them, they refused.

After weeks of reporting in late 2002 and early 2003, I was able to get enough material to start writing stories that revealed that intelligence analysts were skeptical of the Bush administration's evidence for going to war, particularly the administration's assertions that there were links between Saddam's regime and Al Qaeda.

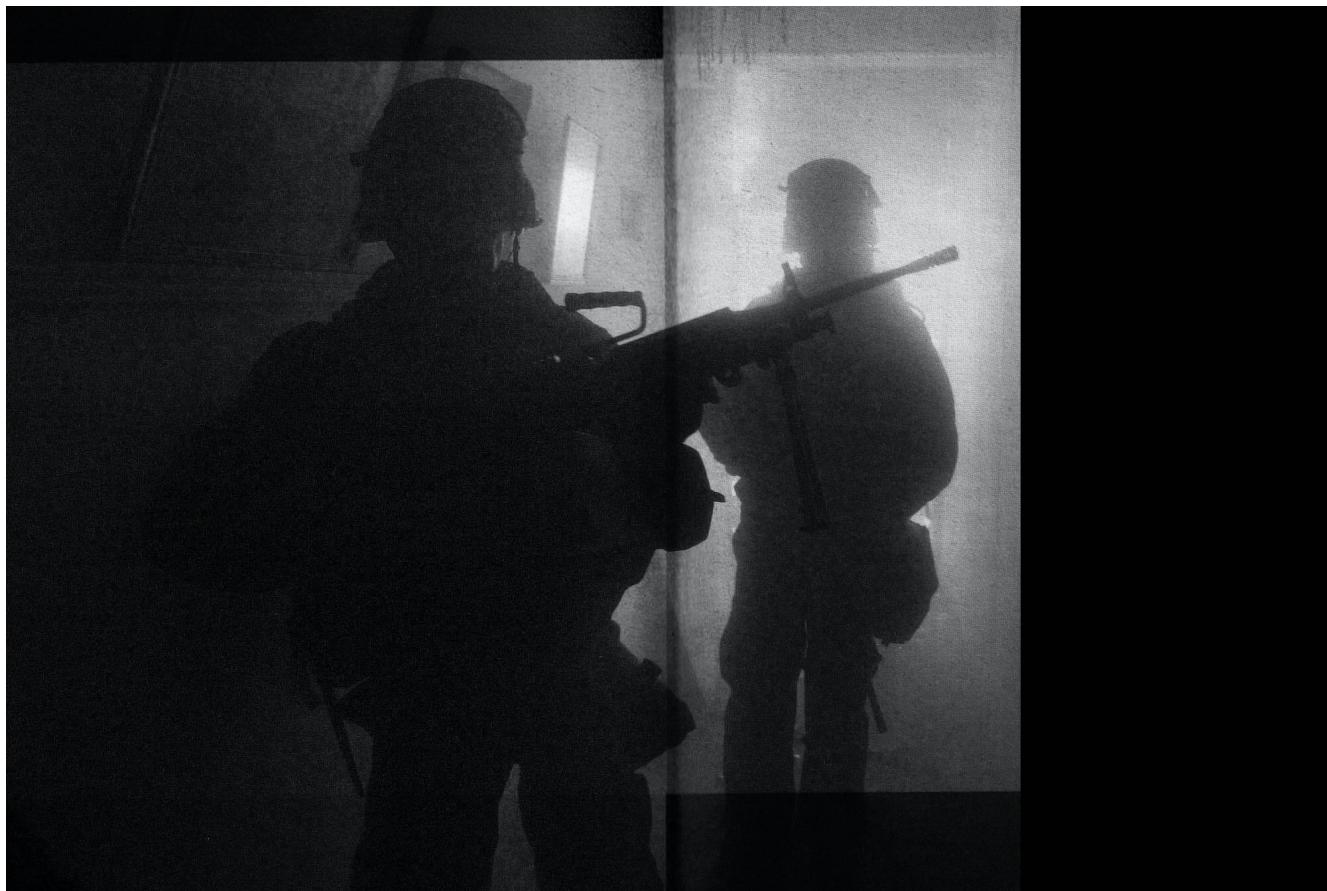
But after I filed the first story, it sat in the Times computer system for days, then weeks, untouched by editors. I asked several editors about the story's status, but no one knew.

Finally, the story ran, but it was badly cut and buried deep inside the paper. I wrote another one, and the same thing happened. I tried to write more, but I started to get the message. It seemed to me that the Times didn't want these stories.

What angered me most was that while they were burying my skeptical stories, the editors were not only giving banner headlines to stories asserting that Iraq had weapons of mass destruction, they were also demanding that I help match stories from other publications about Iraq's purported WMD programs. I grew so sick of this that when the Washington Post reported that Iraq had turned over nerve gas to terrorists, I refused to try to match the story. One mid-level editor in the

Washington bureau yelled at me for my refusal. He came to my desk carrying a golf club while berating me after I told him that the story was bullshit and I wasn't going to make any calls on it.

As a small protest, I put a sign on my desk that said, "You furnish the pictures, I'll furnish the war." It was New York Journal publisher William Randolph Hearst's supposed line to artist Frederic Remington, whom he had sent to Cuba to illustrate the "crisis" there before the Spanish-American War. I don't think my editors even noticed the sign.



U.S. Marines on a mission on the outskirts of Baghdad, Iraq, on April 6, 2003. Photo: Gilles Bassigna/Gamma-Rapho/Getty Images

Just as the invasion of Iraq was about to get underway, I started working on an intriguing story that helped take my mind off my battles with the Times over pre-war intelligence.

I have to admit, it was strange doing an interview naked, but that's what a key source demanded.

In March 2003, I flew to Dubai to interview a very nervous man. It had taken weeks of negotiations, through a series of intermediaries, to arrange our meeting. We agreed on a luxury hotel in Dubai, the modern capital of Middle Eastern intrigue.

Just before we were scheduled to meet, however, the source imposed new demands. We would have to talk in the hotel's steam room, naked. He wanted to make sure he wasn't being recorded. That also made it impossible for me to take notes until after our meeting.

But it was worth it. He told me the story of how Qatar had given sanctuary to Khalid Shaikh Mohammed in the 1990s, when he was wanted in connection with a plot to blow up American airliners. Qatari officials had given KSM a government job and then had apparently warned him when the FBI and CIA were closing in, allowing him to escape to Afghanistan, where he joined forces with bin Laden and became the mastermind behind the 9/11 plot.

I was later able to confirm the story, which was especially significant because Qatar was home to the forward headquarters of U.S. Central Command, the military command in charge of the invasion of Iraq.

**After the story ran**, I felt revitalized.

That spring, just as the U.S.-led invasion of Iraq began, I called the CIA for comment on a story about a harebrained CIA operation to turn over nuclear blueprints to Iran. The idea was that the CIA would give the Iranians flawed blueprints, and Tehran would use them to build a bomb that would turn out to be a dud.

The problem was with the execution of the secret plan. The CIA had taken Russian nuclear blueprints it had obtained from a defector and

then had American scientists riddle them with flaws. The CIA then asked another Russian to approach the Iranians. He was supposed to pretend to be trying to sell the documents to the highest bidder.

But the design flaws in the blueprints were obvious. The Russian who was supposed to hand them over feared that the Iranians would quickly recognize the errors, and that he would be in trouble. To protect himself when he dropped off the documents at an Iranian mission in Vienna, he included a letter warning that the designs had problems. So the Iranians received the nuclear blueprints and were also warned to look for the embedded flaws.

Several CIA officials believed that the operation had either been mismanaged or at least failed to achieve its goals. By May 2003, I confirmed the story through a number of sources, wrote up a draft, and called the CIA public affairs office for comment.

Instead of responding to me, the White House immediately called Washington Bureau Chief Jill Abramson and demanded a meeting.

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story, she said.**

The next day, Abramson and I went to the West Wing of the White House to meet with National Security Adviser Condoleezza Rice. In her office, just down the hall from the Oval Office, we sat across from Rice and George Tenet, the CIA director, along with two of their aides.

Rice stared straight at me. I had received information so

sensitive that I had an obligation to forget about

the story, destroy my notes, and never make another phone call to discuss the matter with anyone, she said. She told Abramson and me that the New York Times should never publish the story.

I tried to turn the tables. I asked Tenet a few questions about the Iranian program and got him to confirm the story, and also provide some details I hadn't heard before. The only point he disputed was that the operation had been mismanaged.

Rice argued that the operation was an alternative to a full-scale invasion of Iran, like the war that President George W. Bush had just launched in Iraq. "You criticize us for going to war for weapons of mass destruction," I recall her saying. "Well, this is what we can do instead." (Years later, when Rice testified in the Sterling trial, a copy of the "talking points" she had prepared for our meeting was entered into evidence, though I don't remember her actually saying many of these things.)

~~DECLASSIFIED~~~~SECRET~~

- This meeting is completely OFF-THE-RECORD.
- We've never called a meeting like this before in this Administration—the fact that we have done so may tell you how seriously we view this matter.
- We've asked you to come in for a meeting because this is something which should not be discussed over open telephone lines.
- Jim, someone has inappropriately and incorrectly given you information about one of the most sensitive and

James Risen: My Life as a New  
York Times Reporter in the  
Shadow of the War on Terror  
2 pages

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- I say "incorrectly," because someone has apparently

Abramson told Rice and Tenet that the decision on whether to run the story was up to Times Executive Editor Howell Raines. After the meeting, Abramson and I stopped for lunch. We were both stunned by the full-court press we had just endured. But I also recognized that I had just gotten high-level confirmation for the story – better confirmation than I could ever have imagined.

Just after Abramson and I met with Tenet and Rice, the Jayson Blair scandal erupted, forcing Raines into an intense battle to save his job. Blair may have been the immediate cause of the crisis, but among the staff at the Times, Blair was merely the trigger that allowed resentment that had built up against Raines over his management style to come out into the open.

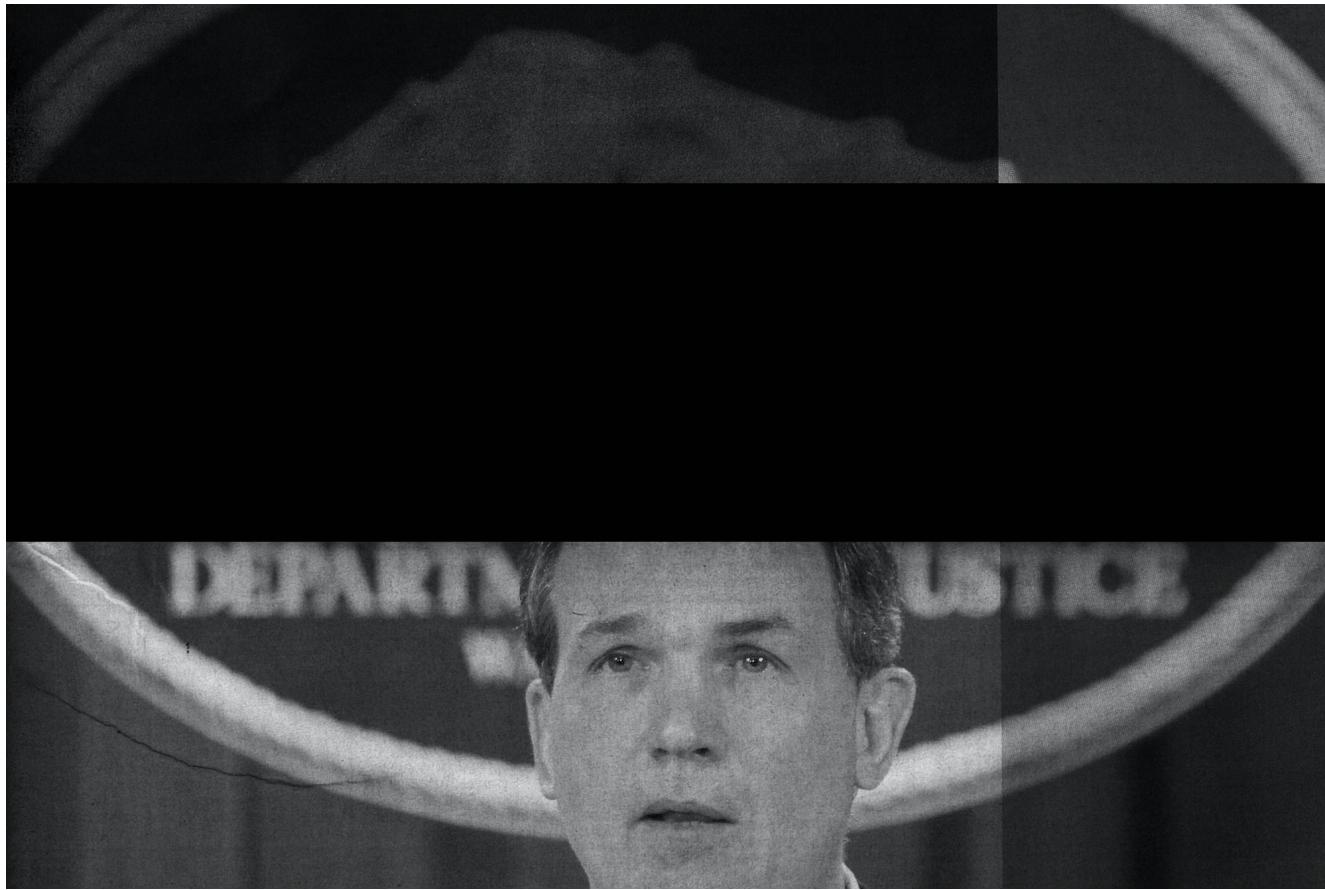
Abramson recalls that after our meeting with Rice, she took the Iran story to both Raines and then-Managing Editor Gerald Boyd. "They gave me a swift no" about publishing the story, Abramson told me recently. She said that she told Raines and Boyd that Rice was willing to discuss the story with them on a secure phone line that they could use from a

facility on Manhattan's East Side, but she says they never asked to take that step, and she didn't push them to do so. Raines disputes this. "I was not informed of this meeting [with Rice and Tenet], nor do I recall being involved with your story in any way," he said in an email. (Boyd died in 2006.)

Raines left the paper in early June 2003. Joe Lelyveld, the retired executive editor, briefly came back to run the Times on an interim basis. I talked to him by phone about the Iran story, but he didn't really have time to deal with it.

When Bill Keller was named executive editor in the summer of 2003, he agreed to discuss the story with Abramson and me. Abramson, meanwhile, had been promoted to managing editor, Keller's No. 2. After I went over the story with him, Keller decided not to publish it. I tried over the next year to get him to change his mind, but I couldn't.

The spiking of the Iran story, coming so soon after the internal fights over WMD coverage, left me depressed. I began to think about whether to write a book that would include the Iran story and document the war on terror more broadly in a way I didn't believe I had been able to do in the Times.



U.S. federal prosecutor Patrick Fitzgerald speaks during a press conference at the Department of Justice on Oct. 28, 2005, in Washington, D.C. Photo: Mandel Ngan/AFP/Getty Images

The Bush administration was successfully convincing the press to hold or kill national security stories, but the government had not yet launched an aggressive campaign to hunt down whistleblowers and target reporters. That all changed with the Valerie Plame case.

In December 2003, the Justice Department appointed Patrick Fitzgerald, then the U.S. attorney in Chicago, to be a special counsel to investigate allegations that top Bush White House officials had illegally leaked Plame's covert identity as a CIA officer. Critics claimed that the Bush White House had sold her out to the press as retribution against her Iraq war critic husband, former U.S. diplomat Joseph Wilson.

Without thinking about the long-term consequences, many in the media cheered Fitzgerald on, urging him to aggressively go after top Bush administration officials to find out who was the source of the leak.

Anti-Bush liberals saw the Plame case and the Fitzgerald leak investigation as a proxy fight over the war in Iraq, rather than as a potential threat to press freedom.

Fitzgerald, an Inspector Javert-like prosecutor whose special counsel status meant that no one at the Justice Department could rein him in, started subpoenaing reporters all over Washington and demanding they testify before a grand jury.

There was hardly a murmur of dissent from liberals as Fitzgerald pressed one prominent reporter after another for information. Only Judy Miller went to jail rather than cooperate. (She eventually testified after she received a waiver from her source, I. Lewis “Scooter” Libby, a top aide to Vice President Dick Cheney.)

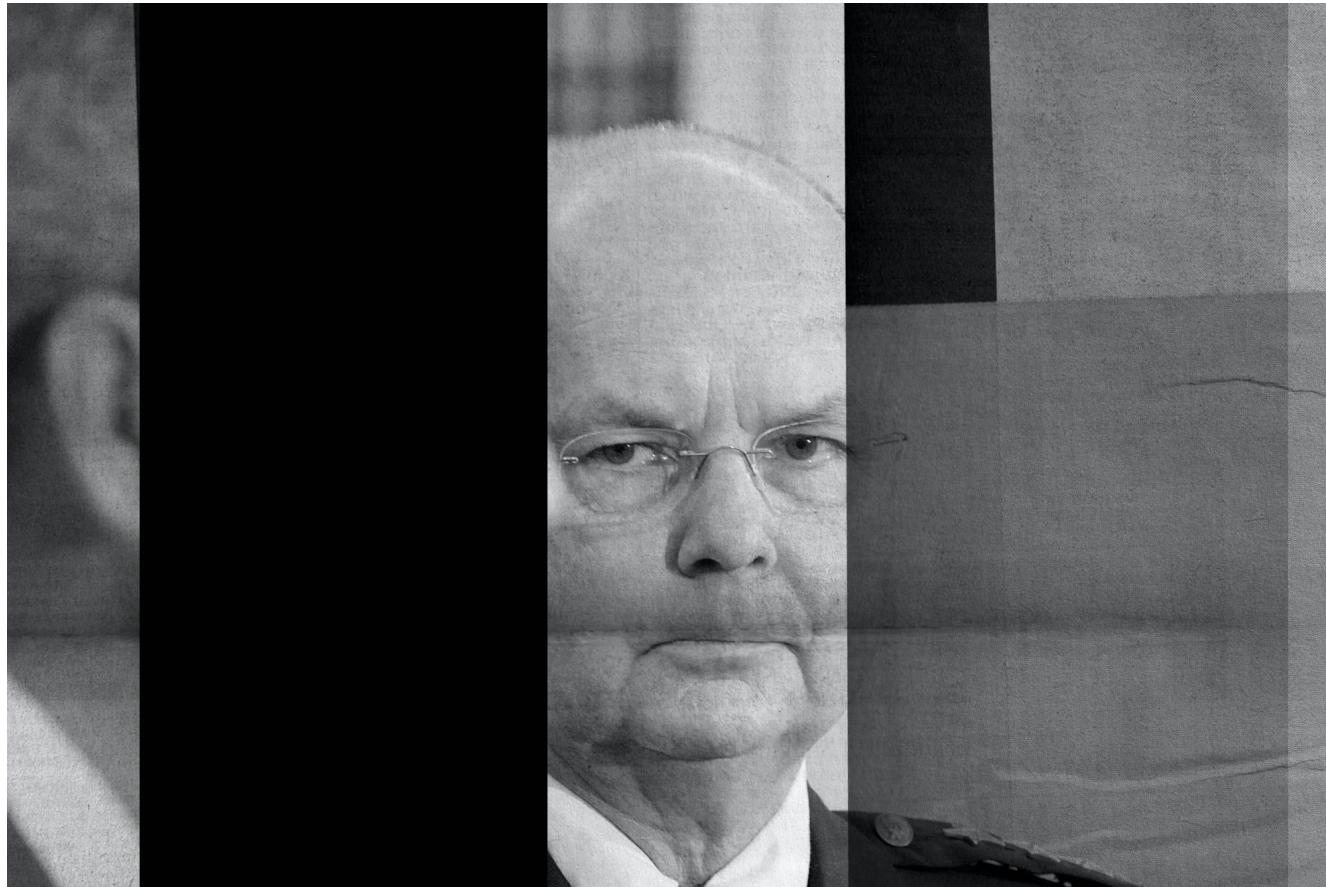
Fitzgerald became famous as a tough, no-nonsense prosecutor, and the fact that he had run roughshod over the Washington press corps didn’t hurt his reputation. He went on to become a partner in one of America’s premier law firms.

The Plame case eventually faded away, but it had set a dangerous precedent. Fitzgerald had successfully subpoenaed reporters and forced them to testify and in the process, had become the Justice Department’s biggest star. He had demolished the political, social, and legal

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constraints that previously made government officials reluctant to go after journalists and their sources. He became a role model for career prosecutors, who saw that you could rise to the top of the Justice Department by going after reporters and their sources.

White House officials, meanwhile, saw that there wasn't as much political blowback from targeting reporters and conducting aggressive leak investigations as they had expected. The decades-old informal understanding between the government and the press – that the government would only go through the motions on leak investigations – was dead.



Michael Hayden, nominated to be the new CIA director, looks on during a personnel announcement on May 8, 2006, in the Oval Office of the White House. Photo: Roger Wollenberg-Pool/Getty Images

## 3 STELLAR WIND

In the summer of 2003, the New York Times named a new Washington bureau chief: Philip Taubman, an old friend of Bill Keller's. Taubman had been the Times's Moscow bureau chief when Keller won a Pulitzer Prize as a correspondent there. Now Taubman was Keller's man in Washington.

Taubman and I developed a friendly relationship. He had covered national security and intelligence matters earlier in his career, and he seemed eager for scoops. But by 2004, I began to disagree with some of his decisions. That spring, I learned that the Bush administration had discovered that Ahmad Chalabi, the neoconservatives' golden boy in Iraq, had told an Iranian intelligence official that the National Security Agency had broken Iranian codes.

That was a huge betrayal by the man some senior Bush administration officials had once considered installing as the leader of Iraq. But after I called the CIA and NSA for comment, NSA Director Michael Hayden called Taubman and asked him not to run the story. Hayden argued that even though Chalabi had told the Iranians that the U.S. had broken their codes, it wasn't clear the Iranians believed him, and they were still using the same communications systems.

Taubman agreed, and we sat on the story until the CIA public affairs office called and told him that someone else was reporting it, and that we should no longer feel bound not to publish. I was upset that I had lost an exclusive, and I believed that Hayden's arguments against

publication had been designed simply to save the White House from embarrassment over Chalabi.

## **Suddenly, as we were standing at the source's front door, everything spilled out.**

In the spring of 2004, just as the Plame case was heating up and starting to change the dynamics between the government and the press, I met with a source who told me cryptically that there was something really big and really secret going on inside the government. It was the biggest secret the source had ever heard. But it

was something the source was too nervous to discuss with me. A new fear of aggressive leak investigations was filtering down. I decided to stay in touch with the source and raise the issue again.

Over the next few months, I met with the source repeatedly, but the person never seemed willing to divulge what the two of us had begun to refer to as “the biggest secret.” Finally, in the late summer of 2004, as I was leaving a meeting with the source, I said I had to know what the secret was. Suddenly, as we were standing at the source’s front door, everything spilled out. Over the course of about 10 minutes, the source provided a detailed outline of the NSA’s massive post-9/11 domestic spying program, which I later learned was code-named Stellar Wind.

The source told me that the NSA had been wiretapping Americans without search warrants, without court approval. The NSA was also collecting the phone and email records of millions of Americans. The operation had been authorized by the president. The Bush administration was engaged in a massive domestic spying program that

was probably illegal and unconstitutional, and only a handful of carefully selected people in the government knew about it.

I left that meeting shocked, but as a reporter, I was also elated. I knew that this was the story of a lifetime.

The NSA had lived by strict rules against domestic spying for 30 years, ever since the Church Committee investigations of intelligence abuses in the 1970s had led to a series of reforms. One reform measure, the Foreign Intelligence Surveillance Act of 1978, made it illegal for the NSA to eavesdrop on Americans without the approval of a secret FISA court. My source had just revealed to me that the Bush administration was secretly ignoring the law requiring search warrants from the FISA court.

I quickly began to think about how I could confirm the story and fortunately found the right person, a source who didn't usually like to volunteer much information but was sometimes willing to confirm things I had heard elsewhere. As we sat alone in a quiet bar, I told the source what I had heard about the NSA program, and it was immediately clear that the source knew the same secret and was troubled by it.

The source explained many of the technical details of the Bush administration's secret NSA domestic spying program to me, describing how the NSA had latched onto giant gateway switches along the borders between the domestic and international telecommunications networks, so it could vacuum up all international phone traffic and email messages sent or received by Americans.

As I worked to find more people to talk to about the story, I realized that the reporter sitting next to me in the Washington bureau, Eric Lichtblau, was hearing similar things. Lichtblau covered the Justice Department. When he first came to the paper in 2002, I had been jealous of his abilities as a reporter, especially his success at developing

sources. I sometimes let my resentment get the better of me; I recall one meeting with Abramson in which I was openly dismissive of an exclusive story Lichtblau was working on. But he never held it against me, and we struck up a friendship and started working on stories together.

Lichtblau had heard from a source that something potentially illegal was going on at DOJ, that officials seemed to be ignoring the law requiring warrants for national security wiretaps, and that Attorney General John Ashcroft might be involved.

Lichtblau and I compared notes, and we realized we were probably hearing about the same story. We decided to work together.

We both kept digging, talking to more people. We started doing some interviews together and discovered that we had very different reporting styles. While I liked to let a source talk about whatever was on their mind, Lichtblau liked to get right to the point, and sometimes badgered sources to cough up information. Our approaches were complementary, and we inadvertently developed a good cop-bad cop routine. Lichtblau would often give our sources colorful nicknames, which made it easier for us to talk without revealing their identities. He called one early source on the NSA story “Vomit Guy” because when he told the source what he wanted to talk about, the source told Lichtblau he was so upset about the topic that he wanted to throw up.

By the fall of 2004, we had a draft of a story. I felt it was time to go through the front door, so I decided on impulse to try to bluff my way to the top of the NSA. I called the NSA’s press spokesperson, Judy Emmel, and told her I had to talk to Hayden immediately. I said it was urgent, and I couldn’t tell her what it was about.

She got Hayden on the phone right away. I was shocked that my bluff had worked, but now that I had Hayden, I had to think fast about what I

wanted to ask him. I decided to read him the first few paragraphs of the draft Lichtblau and I were writing. Lichtblau was sitting next to me, staring intently as I read Hayden the top of the story on the phone. I was sitting in front of my computer, ready to transcribe whatever Hayden would say.

After I read the first few paragraphs, Hayden let out an audible gasp and then stammered for a moment. Finally, he said that whatever the NSA was doing was legal and operationally effective. I pressed him further, but he refused to say more and hung up.

Hayden had all but confirmed the story. It seemed obvious from his response that he knew exactly what I was talking about and had begun to defend his actions before deciding to end the conversation. After explaining to Lichtblau what Hayden had just said, I walked over to Taubman's office to tell him the news. "I thought it was a terrific scoop, but knew we would be faced with some tough questions about whether publication might undermine U.S. efforts to prevent another 9/11 style attack," Taubman emailed me recently.

**The Bush administration was engaged in a massive domestic spying program that was probably illegal and unconstitutional, and only a handful of carefully selected people in the government knew about it.**

Within days, Hayden called Taubman and asked him not to run the NSA story. Taubman listened, but was noncommittal. That was the beginning of what turned out to be more than a year of negotiations between the Times and the Bush administration, as officials repeatedly sought to kill the NSA story.

A few days later, Taubman and I went to the Old Executive Office Building, next to the White House, to meet with acting CIA Director John McLaughlin, who had recently replaced Tenet, and McLaughlin's chief of staff, John Moseman. We met them in the office the CIA director maintains in the OEB to be close to the White House. The meeting, the first of many between the Times and the government over the NSA story, was odd. In contrast to my meeting with Tenet and Rice on the Iran story, when they had confirmed the story while asking the paper to kill it, McLaughlin and Moseman refused to acknowledge that the NSA story was true, even as they asked us not to print it. They kept speaking in hypothetical terms, saying that if such a program existed, it would be important to the United States that it remain secret, and American newspapers shouldn't report on such things.

I had now been through this routine with the Bush administration several times, and their dire warnings about national security no longer impressed me. They had cried wolf too many times to be credible.

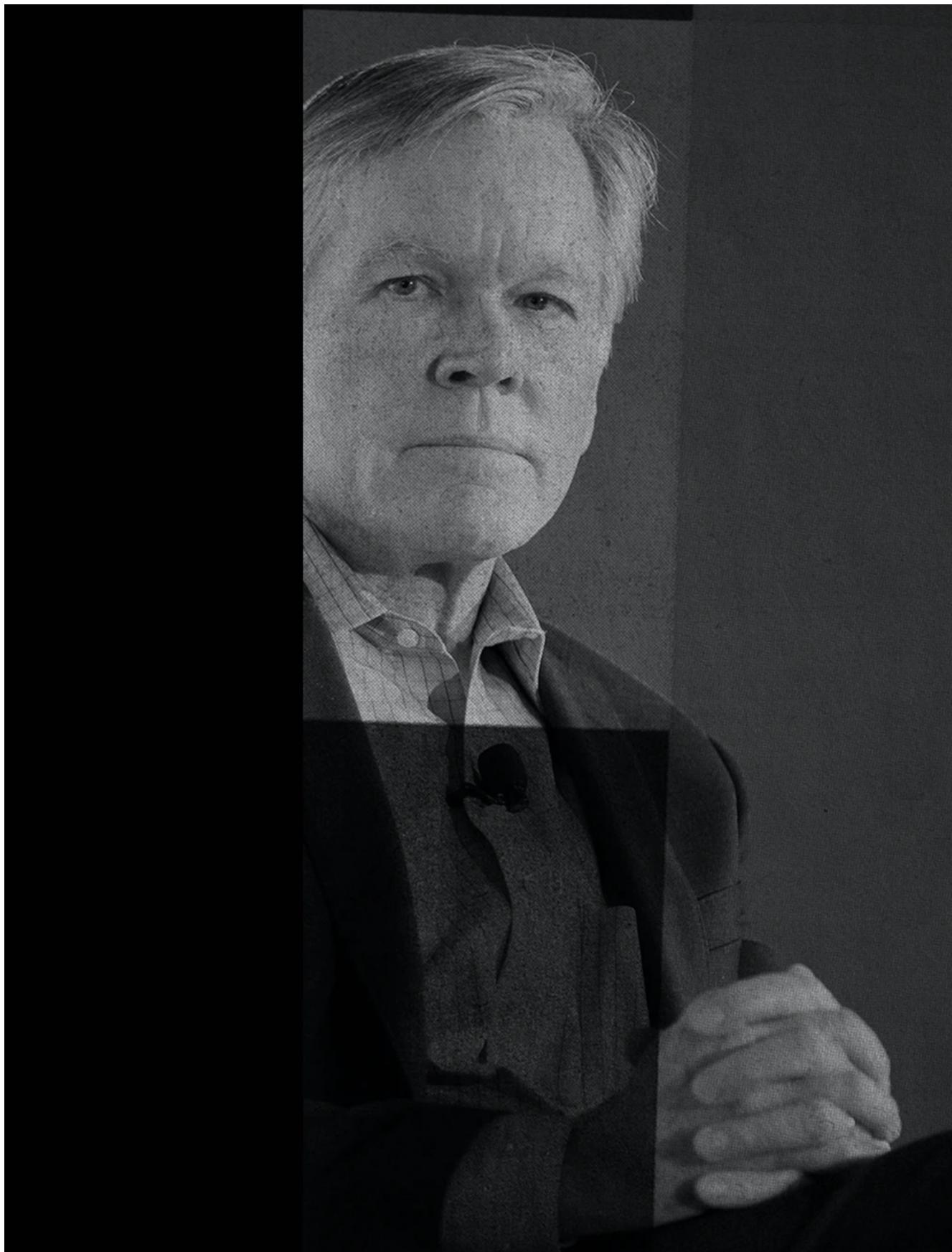
Taubman didn't give them an answer about whether the Times would publish the story, telling them it would be up to Keller. He also demanded that they warn us if they found out any other news organization was onto the same story.

In his 2016 memoir, "Playing to the Edge: American Intelligence in the Age of Terror," Hayden recalls that what he had heard from McLaughlin and Moseman convinced him that he could negotiate with Taubman, but not with me. "Taubman seemed to be thoughtful and reflective throughout. Risen was described as obnoxious, argumentative, and

combative, commenting only to rebut with a constant theme of the public's right to know," Hayden writes. "Contemporaneous notes indicated that Taubman understood the seriousness of the question, while Risen doesn't give a shit, frankly." Hayden writes that as a result of that assessment, "we became pretty forthcoming – with Taubman."

As Lichtblau and I continued to report, we realized that we had to get a better understanding of how American and international telecommunications networks worked. I spent a day in the library at Georgetown University, poring over technical journals and academic works on the telecommunications industry. I called AT&T's headquarters and told the company's spokesperson I was interested in learning more about the infrastructure of the telephone system, particularly the big switches that brought telephone and internet traffic into the United States. I did not tell the spokesperson why I was taking an interest in such an arcane issue, other than that it was for a story in the New York Times.

At first, the spokesperson was very friendly and cooperative, and said he would be happy to have me talk with some of AT&T's technical experts, adding that he might be able to arrange a tour of their facilities. But I never heard from him again. I called back several times, but he didn't return my calls. I finally figured that someone from the Bush administration had admonished AT&T not to talk to me.



Bill Keller, former executive editor of the New York Times, in 2013. Photo: Andrew Harrer/Bloomberg/Getty Images

During October 2004, Lichtblau and I kept reporting and writing. We sometimes wrote at my house outside Washington, taking breaks to watch the epic baseball playoffs between the Boston Red Sox and New York Yankees. Rebecca Corbett, our editor in the Washington bureau, had been working with us on the story.

We were operating against the backdrop of the 2004 presidential race between George W. Bush and John Kerry. With a week or two to go before the election, Lichtblau and I, along with Corbett and Taubman, went to New York for a meeting with Keller and Abramson to decide whether the story would be published.

We sat in the back alcove of Keller's office in the old Times building on 43rd Street. It was a comfortable, book-lined nook that I had visited once before, when I had tried to get Keller to change his mind and publish the long-spiked CIA-Iran story. Lichtblau, Corbett, and I argued strongly that the NSA story should be published.

In that small room, we launched into an intense debate over whether to publish the story, dominated by the inherent tension between national security and the public's right to know. A key issue was the legality of the NSA program. Keller seemed skeptical of our sources' arguments that the program was illegal and possibly unconstitutional. There were some tense exchanges.

I told Keller I thought this was the kind of story that had helped make the New York Times great in the 1970s, when Seymour Hersh had uncovered a series of intelligence abuses. Keller seemed unimpressed; as I recall, he called the comparison between the NSA story and Hersh's earlier work "facile." (I don't think my comment was facile, but it was probably arrogant.)

As the meeting wore on and Keller was unconvinced by each reason we gave for running the story, I grew more desperate to find some

argument that might change his mind. Finally, I said that if we didn't run the story before the election, a key source might go elsewhere and another news outlet might publish it.

That was exactly the wrong thing to say to Keller. He got his back up, wondering aloud whether the source had a political agenda. He said he wouldn't be pressured into running the story before the election because he didn't want to let the potential political impact affect his journalistic decision. I pointed out that if he decided not to run the story before the election, that would also have an impact, but he seemed to ignore my comment.

By the end of the meeting, he said he had decided not to run the story. In a recent interview, Keller acknowledged that my telling him that a source might go elsewhere with the story influenced his decision. "That set off alarm bells in my head," Keller recalled, adding that he thought "we have a critical source with an animus."

Keller now also says that the overall climate in the country in 2004 provides important context for his decision not to run the story. In a 2013 interview with then-Times Public Editor Margaret Sullivan, he expanded on that, saying that "three years after 9/11, we, as a country, were still under the influence of that trauma, and we, as a newspaper, were not immune. It was not a kind of patriotic rapture. It was an acute sense that the world was a dangerous place."

Keller's rejection was a setback. But after the election, Lichtblau and I convinced the editors to let us start working on the story again. As we looked for more sources, we began to feel the chilling effect of the government's new approach to leak investigations. Within the small group of people in the government who knew about the NSA program, many also knew by now that we were investigating it and were afraid to talk to us. On a snowy night in December 2004, we drove to the home of one official who Lichtblau believed knew about the NSA program.

When the official opened the door, he recognized Lichtblau and quickly realized why we were there. He started berating us for showing up unannounced, told us to leave immediately, and shut the door. He seemed worried that someone might have seen us outside his house.

The paper once again began meetings with top administration officials who wanted to stop us from running the story. In the weeks after the election, Lichtblau, Taubman, and I went to the Justice Department to meet with Deputy Attorney General James Comey and White House Counsel Alberto Gonzales. Ashcroft had just resigned, and while it had not yet been announced, it was clear that Gonzales was about to replace him as attorney general. Now it was up to Gonzales to convince us to kill the story.

But once the meeting started, Gonzales barely said anything; it seemed that the administration was temporarily happy to have gotten through the election without our story being published, and the tone in the room was more relaxed than usual. Comey did most of the talking. While he admitted that he had some qualms about the program, he kept insisting that it was too important to publicly disclose and that we shouldn't run our story. (Comey did not reveal that he and several other top Justice Department officials, along with then-FBI Director Robert Mueller, [had nearly resigned over certain aspects of the program earlier in 2004](#).)

Meanwhile, Hayden, who clearly had decided to make Taubman the focus of his lobbying campaign to stop the Times from publishing the story, invited him, but not Lichtblau or me, to NSA headquarters and allowed Taubman to talk with NSA officials directly involved in the domestic spying program. Afterward, Taubman told Lichtblau and me that he couldn't tell us what he had learned. Today, Taubman says Hayden's purpose "was to read me into the program on an off-the-

record basis so I would have a better understanding of how it worked and why disclosure of it would be damaging to U.S. national security.”

“When I returned to the bureau, I recall that Eric and you, not surprisingly, were eager to hear about the meeting,” Taubman told me in an email. “I described my visit in general, but said I had agreed not to tell anyone about the technical details I had learned, but would employ my knowledge by telling you if I saw anything in your draft story that I thought was incorrect.”

**“When somebody gives you that kind of access and says lives will be at risk, you take them seriously.” — Bill Keller**

Keller now says that Taubman’s relationship with Hayden played an important role in the decision to not run the story. “Certainly one factor was that Taubman knew Hayden pretty well, and he trusted him,” Keller told me. “Hayden invited Taubman out to where the guys were actually doing the NSA program. When somebody gives you that kind of access and says lives will be at risk, you take them seriously.”

Meanwhile, the White House decided to enlist members of the “Gang of Eight,” the handful of congressional leaders who had been secretly briefed on the program while the rest of Congress was kept in the dark. Then-Rep. Jane Harman, the ranking Democrat on the House Intelligence Committee, called Taubman and made the case that the New York Times should not run the story.

When I asked Taubman about this recently, he suggested that Harman’s call came as a result of his discussions with the government. Taubman

recalls telling either Hayden or Rice that the Times needed to hear from the leaders of the congressional intelligence committees who knew about the program. “Jane Harman agreed to talk to me, on the condition that the call be off-the-record. She told me that she and her colleagues, Democrat and Republican, strongly supported the NSA effort and requested that the [Times] not disclose it.”

By mid-December 2004, the story had been re-reported, so Lichtblau, Corbett, and I began pushing again to get it into the paper.

Instead of traveling to New York this time, we held a series of closed-door meetings with Taubman in his office in Washington. The additional reporting and rewriting did not sway him. He accepted the Bush administration’s arguments that the piece would harm national security. He killed the story. This time, Keller was not directly involved in our meetings. The NSA story now seemed permanently dead.

I was about to start a long-scheduled leave to write a book about the CIA and the Bush administration. I was furious that the Times had killed both the Iran and the NSA stories, and angry that the White House was successfully suppressing the truth. I told myself that if I kept going along with decisions to cut, bury, or outright kill so many stories, as I had the last few years, I wouldn’t be able to respect myself.

I decided to put the Iran and the NSA stories in my book. I was pretty sure that meant I would be fired from the Times. It was nerve-wracking, but my wife, Penny, stood firm. “I won’t respect you if you don’t do it,” she told me. That sealed my decision.

Throughout early 2005, I worked at home on “State of War,” which was scheduled to be published by Free Press, an imprint of Simon and Schuster, in early 2006. After I wrote the chapter about the NSA domestic spying program, I called Lichtblau and asked him to come to my house. When he arrived, I told him to sit down, read the chapter,

and let me know whether it was OK to put the story in my book. After he finished reading, he joked that I had buried the lede, but I sharply reminded him that writing a book was different from writing a news story. He gave his approval to include it in the book, since he knew the story was dead at the Times. He only asked that I mention him by name in the chapter – and spell his name correctly.

While I was on book leave, Lichtblau was in an agonizing position. Barred by his editors from working on the NSA story, he was instead assigned to cover the debate in Congress over the reauthorization of the Patriot Act. But Lichtblau knew that the debate over how to strike the proper balance between national security and civil liberties was a charade so long as the existence of the NSA's domestic spying program was hidden from public view. The White House allowed Congress to publicly debate the balance, even while George W. Bush had already secretly decided what that balance would be. "Knowing about the NSA program, I found it increasingly awkward to write about all the back-and-forth haranguing with a straight face," Lichtblau later wrote in his 2008 book, "Bush's Law: The Remaking of American Justice." "After getting back to the office from one congressional hearing that I covered on the Patriot Act that spring of 2005, I walked straight over to Rebecca Corbett's desk in frustration to suggest that maybe someone else should cover the whole debate in Congress; in light of what we knew, I told her, I no longer felt comfortable covering what seemed a bit like a Washington game of three-card monte. ... I was stuck on the story."

While covering one congressional hearing, Lichtblau listened as Harman called for tighter restrictions on the Patriot Act to prevent abuses of civil liberties. Lichtblau knew that Harman had been briefed on the NSA program and had called the Times to kill our story, so he followed her out into the hall to talk about it. But when he asked her how she could square her demands for limits on the Patriot Act with what she knew about the NSA program, Harman chided him for raising

the matter. “Shooing away her aides, she grabbed me by the arm and drew me a few feet away to a more remote section of the Capitol corridor,” he wrote in his book. “You should *not* be talking about that here,’ she scolded me in a whisper. ‘They don’t even know about that,’ she said, gesturing to her aides, who were now looking on at the conversation with obvious befuddlement. ‘The Times did the right thing by not publishing that story.”

I returned from book leave in May 2005 and finished my manuscript later that summer. In the late summer or early fall, after I turned in the last chapters to my publisher and the editing process at Free Press was virtually complete, I decided to let the Times know what I was doing.

I emailed Jill Abramson, who by then was in New York, and told her that I was putting the NSA and the Iran stories in my book.

The reaction was swift. Within minutes, Taubman was standing near my desk, grimly demanding to talk. We went into his office. He said firmly that I was being insubordinate and rebelling against the editorial decisions of the Times.

“My view was that you and The Times had joint ownership of the story, that the top news executives, after careful consideration, had decided to hold the story, and that you did not have a unilateral right to publish it in your book,” Taubman recalled recently. “At the time, I was concerned that you were moving ahead with a volatile decision you had made absent consultation with me or Bill.”

Taubman also recalls that he was angry because he believed I had misled him before I went on book leave into thinking I was going to write a biography of George Tenet. He’s probably right.

He wanted me to take the NSA story out of my book. I responded that I wanted the NSA story to be published both in the Times and in my

book.

We began to talk almost every day about how to resolve our impasse. Initially, I suggested the paper run the NSA story when my book came out, under the kind of arrangement that the Washington Post seemed to have with Bob Woodward. The Post regularly excerpted Woodward's books on its front page, giving the paper Woodward's scoops and his books enormous publicity.

That proposal went nowhere. Eventually, Taubman countered that the paper would only consider running the NSA story if I first agreed to remove it from my book and thus, give the paper the chance to reconsider its publication without any undue pressure. But I knew the only reason the Times would even consider running the NSA story was if I kept it in my book.

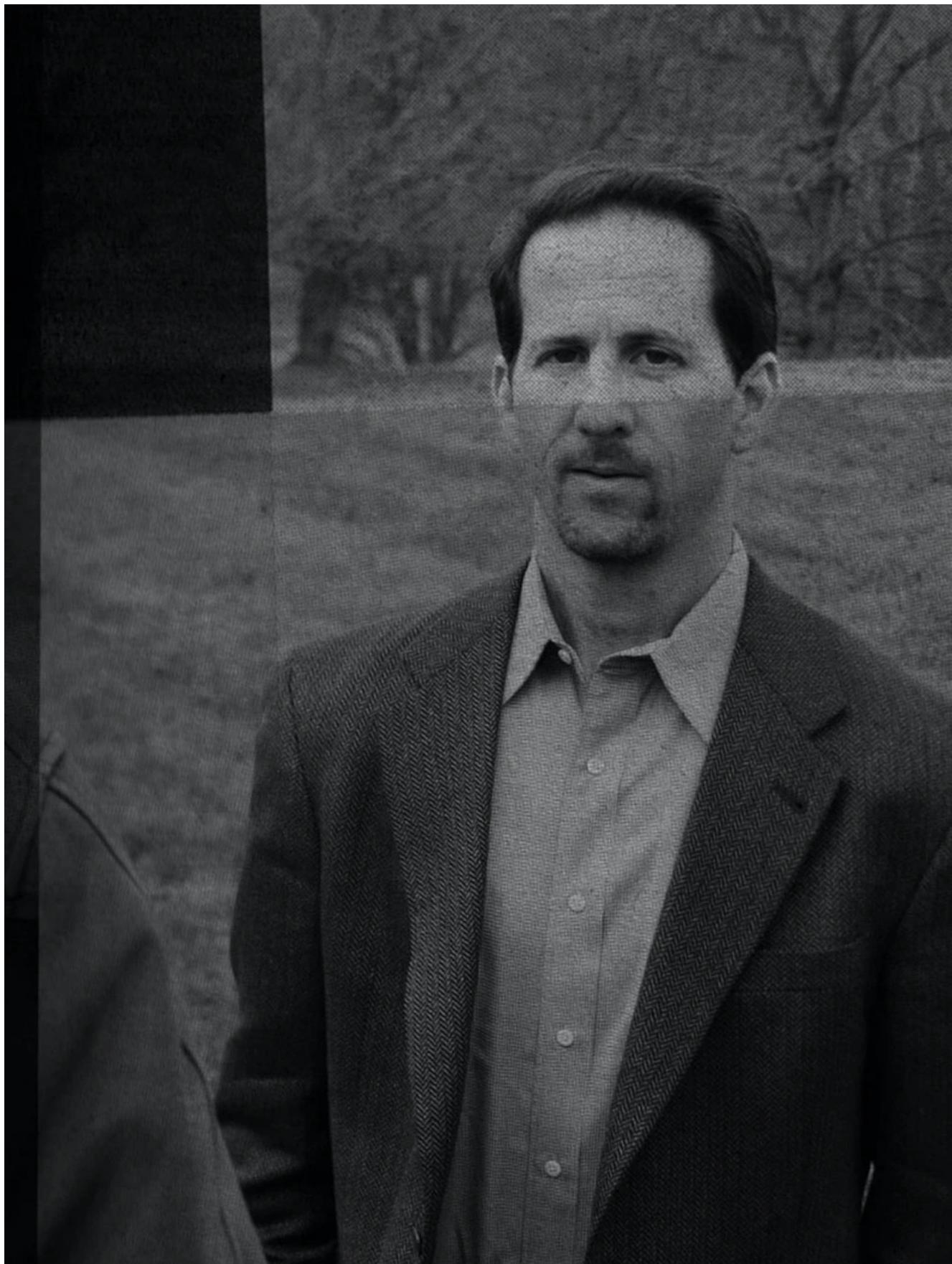
**Abramson said she told Keller that “they would look like idiots” if they still were holding the story when it appeared in my book.**

We were at loggerheads, and the clock was ticking toward the January 2006 publication of “State of War.” When I told Lichtblau what was going on, he joked, “You don’t just have a gun to their heads. You’ve got an Uzi.”

While researching this personal account, I was surprised to learn that Abramson recalls that my email to her was not what

started a debate among the Times senior editors about what to do about the NSA story and my book. Abramson says that by the time I emailed her, she already knew that I was putting the NSA story in my book. She

says that another reporter in the Washington bureau had told her earlier that I was going to do it, and she had already told Bill Keller about my plans. She said she told Keller that “they would look like idiots” if they still were holding the story when it appeared in my book. “The classified program will be known publicly when Jim’s book is published anyway. So what could possibly be the point of continuing to hold it?” Abramson recalls telling him. “I had previously revisited publishing with Keller once or twice – maybe more,” Abramson told me recently. “I wanted the story published.”



Eric Lichtblau in Derwood, Maryland. Photo: Brooks Kraft LLC/Corbis/Getty Images

Besides Eric Lichtblau, the Times's top editors, me, and Barclay Walsh, our great researcher in the Times's Washington bureau, only a few people at the paper knew about the NSA story or the intense debate underway over whether to publish it. Lichtblau and I would sometimes walk around nearby Farragut Square when we wanted to speak in confidence. In front of most other reporters and editors in the office, I tried to act as if nothing unusual was going on, but I'm sure a few suspected something was up.

That fall, I became so concerned that the Times would not run the NSA story and that I would be fired that I secretly met with another national news organization about a job. I told a senior editor there that I had a major story that the Times had refused to run under pressure from the White House. I didn't tell him anything about the story, but I said if they hired me, I would give the story to them. The senior editor replied that their publication would never run a piece if the White House raised objections on national security grounds. I left that meeting more depressed than ever.

After a long series of contentious conversations stretching over several weeks in the fall of 2005, I finally reached an uneasy compromise with the editors. They would let Lichtblau and me start working on the NSA story again, and the paper would resume talks with the Bush administration over whether to publish it. But if the paper once again decided not to run the story, I had to take it out of my book. I agreed to those conditions, but I secretly knew that it was already too late to take the chapter out of my book, and I had no intention of doing so. I was gambling that the Times would run the story before the book was published. But I also knew that if the editors didn't run it, I would probably be out of a job.

Curiously, the Times editors seemed to shrug off the Iran story, even though they knew it was going to be in the book too. Maybe the NSA

story was fresher in their minds. We didn't have any significant discussions about whether to publish the Iran story in the paper, and the editors never complained to me about my decision to publish it in my book. (In 2014, Jill Abramson said in an interview with "60 Minutes" that she regretted that she didn't push harder to get the Times to publish the CIA-Iran story.)

The editors began a new round of meetings with Bush administration officials, who were apparently surprised that the Times was resurrecting the NSA story. I was excluded from these conversations. In each of the meetings in which they sought to convince the editors not to run the story, Bush administration officials repeatedly said the NSA program was the crown jewel of the nation's counterterrorism programs, and that it saved American lives by stopping terrorist attacks.

The meetings dragged on through the fall of 2005. Michael Hayden, now the principal deputy director of the Office of National Intelligence, often took the lead, and continued to meet with Philip Taubman. In one meeting, Taubman and Bill Keller received a secret briefing in which officials described the counterterrorism successes of the program. But when the two editors returned to the Washington bureau, they told Lichtblau and me that their briefing was off the record and so secret that they couldn't share what they'd heard.

Lichtblau and I eventually realized that Bush administration officials had been misleading Keller and Taubman. The officials had told them that under the NSA's secret domestic spying program, the agency didn't actually listen to any phone calls or read any emails without court-approved search warrants.

They had insisted that the agency was only vacuuming up metadata, obtaining phone calling logs and email addresses. The content of the phone calls and email messages was not being monitored, the officials had told the editors. That was not true, but the government had been

trying to convince Keller and Taubman that Lichtblau and I had been exaggerating the scope of the story.

It took time, but Lichtblau and I were finally able to persuade Keller and Taubman that they had been misled. In our recent interview, Keller said that once he realized the administration had been disingenuous with him, he started to change his mind about publishing the story.

It was also critically important that Lichtblau had developed a new source who said that some Bush administration officials had expressed fears that they might face prosecution for their involvement in the secret NSA spying operation. There had also been an intense debate at the highest levels of the Bush administration about the legality of some aspects of the program. That raised fundamental questions about the reassurances the Times editors had received from administration officials about the program's standing.

**The official pulled me close and whispered, so quietly that none of the others in the room could hear, “Check out when Ashcroft was sick.”**

In the late fall of 2005, I also got an important lead from a new source, but the tip was so cryptic I didn't know what to make of it at the time. It came when a senior official agreed to see me, but only on the condition that our interview be conducted with other officials present. During that meeting, the official repeatedly and loudly expressed total ignorance of any secret NSA domestic spying program.

But as I was leaving and stood up to shake hands, the official pulled me close and whispered, so quietly that none of the others in the room could hear, “Check out when Ashcroft was sick.”

Lichtblau and I struggled for weeks to figure out what that tip meant.

By late November 2005, Keller seemed to be leaning toward publishing the NSA story, but the editors were moving so slowly that I was getting nervous that they wouldn’t make up their minds before my book came out in January. I was more anxious than I had ever been in my life. I couldn’t sleep and began to develop high blood pressure. I tried to distract myself by going to the movies, but I was so stressed that I would usually walk out after five or 10 minutes. I also had to keep meeting with key sources on the NSA story to persuade them to stick with me and not take the story elsewhere. I urged them to be patient, though I was running out of patience myself. During meetings on the NSA story with Lichtblau and Rebecca Corbett, I was so fatigued and stressed that I would often lie down and shut my eyes on the couch in Corbett’s office.

With the clock ticking and the publication of my book looming, Taubman asked me to arrange a new round of meetings with the very few Democratic congressional leaders who knew about the NSA program. He wanted them to tell him that it was OK to run the story. Both Lichtblau and I found this request troubling.

I met with one Democrat who agreed to call Taubman, but the congressperson only told him the story was accurate, not whether the Times should run it. Taubman wanted more, so I went to see Nancy Pelosi, then the House minority leader, who had previously been the ranking Democrat on the House Intelligence Committee. After she read the story, I asked her if she would call Taubman. Without confirming the story, she said simply, “The New York Times is a big institution. It can make its own decisions.”

Then, after one final round of meetings with the White House in early December, Keller said he had decided to run the story. He called the White House and told them his decision. President Bush then called Arthur Sulzberger, the Times's publisher, and asked for a personal meeting and a chance to convince Sulzberger to overrule Keller.

It was intimidating stuff, but I was confident that Sulzberger would view this as a chance to live up to the legacy of his father, who had published the Pentagon Papers in the face of threats from the Nixon White House.

Sulzberger, Keller, and Taubman went to the Oval Office to meet Bush. Lichtblau and I were not invited to the meeting and were not even allowed to meet with Sulzberger to brief him on the story beforehand.

Keller [later said](#) that Bush told Sulzberger he would have "blood on your hands" if he published the NSA story. Keller also said the meeting didn't change his or Sulzberger's minds about publishing the story.

Keller and the other editors began to express confidence that the story would run, yet there was still no date for publication. In fact, the White House was trying to schedule more meetings with the editors to try one last time to change their minds. I was frantic; it was December, my book was coming out in early January, and the story still hadn't run in the Times.

Finally, Lichtblau came in with new information that prompted the Times to publish the story. Just days after the Bush-Sulzberger Oval Office meeting, a source told Lichtblau that the White House had considered getting a court-ordered injunction to prevent the Times from publishing the story. This was electric news, because the last time that had happened at the Times was during the Pentagon Papers case in the 1970s, one of the most important events in the history of the

newspaper. The debate about whether to run the story was over. By that afternoon, the piece was ready to go.

But there was one last thing: Keller included a line in the story saying that the article had been held for a year at the request of the Bush administration, which had argued it would harm national security. [The final version of the story](#) stated: “The White House asked The New York Times not to publish this article, arguing that it could jeopardize continuing investigations and alert would-be terrorists that they might be under scrutiny. After meeting with senior administration officials to hear their concerns, the newspaper delayed publication for a year to conduct additional reporting.”

We had one advantage over the Times of the early 1970s during the Pentagon Papers crisis, and that was the internet. It would be much more difficult for the White House to go to court to stop publication because we could quickly put the story online. So soon after Keller called the White House to tell them the story was running, the NSA story was posted on the New York Times website. It ran on the front page on December 16, 2005.

Lichtblau, Corbett, Taubman, and I sat in Taubman’s office, listening over a speaker phone as Keller made the final decision to post the story. As the call with Keller ended, I let out a long sigh. Taubman looked at me. “What’s wrong?” he asked.

“Nothing. I’m just relieved.”

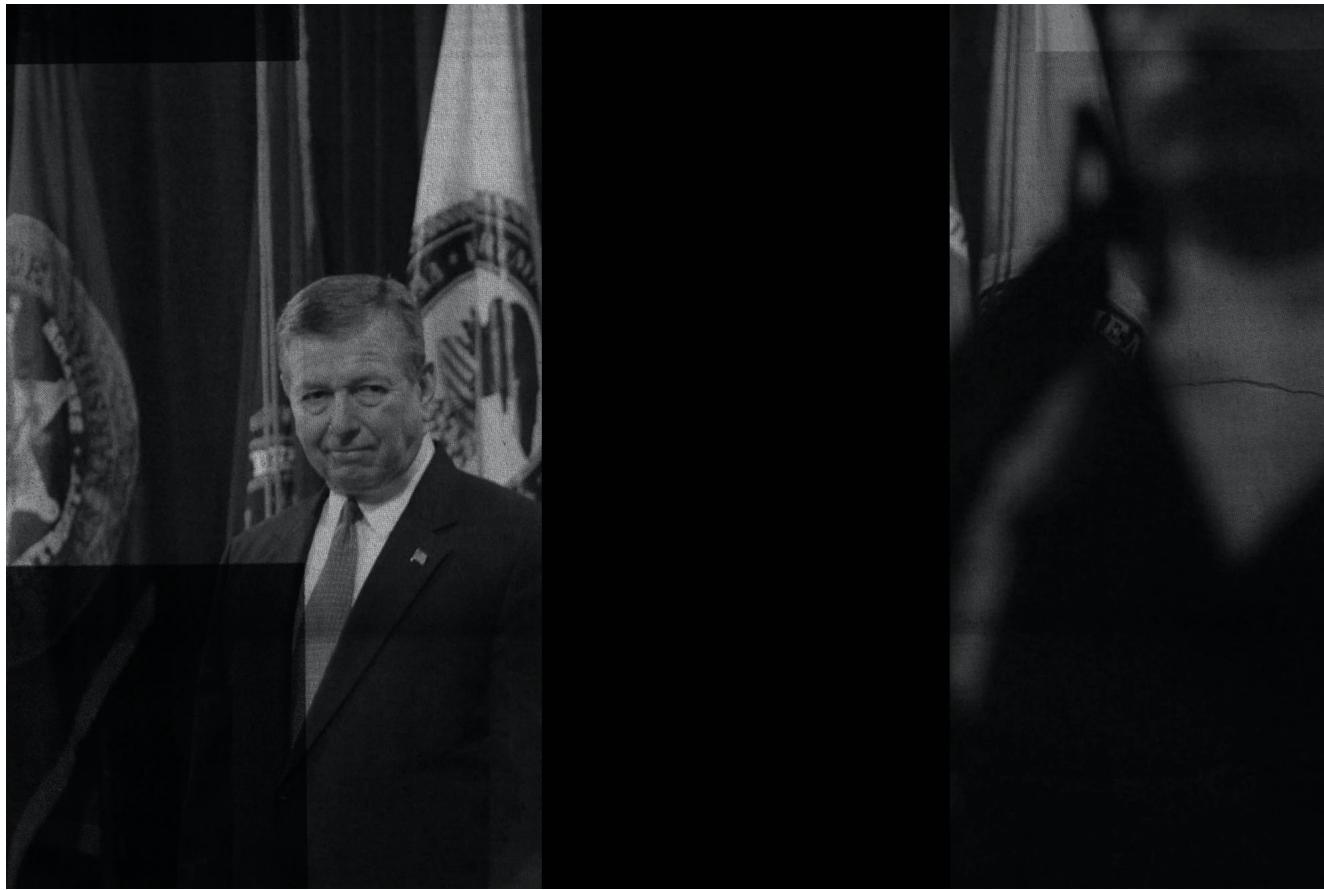
In the years since, Taubman has reconsidered his decision-making on the NSA story, notably because of the leaks of NSA documents by former NSA contractor Edward Snowden, which revealed in greater detail the massive scale of the domestic surveillance operation. In the wake of Snowden’s revelations, Taubman [told Sullivan](#), the public editor, that his views had changed: “I would have made a different

decision had I known that Jim and Eric were tugging on a thread that led to a whole tapestry.” (Ironically, the fact that the Times held the NSA story for more than a year convinced Edward Snowden not to come to the paper with his trove of documents when he became a whistleblower.)

Today, Keller defends his handling of the NSA story – both in 2004 and in 2005 – and reflects that one factor was the changing climate in the country, which had soured on Bush, the war in Iraq, and the war on terror. “I’m pretty comfortable both with the decision not to publish and the decision to publish,” he told me recently.

Keller decided to give the story only a one-column headline. As Lichtblau wrote in his book, “Keller had decided he didn’t want it to look like we were poking the White House in the eye with a big, screaming headline about NSA spying; we wanted to be discreet, he said, and the story would speak for itself.”

I didn’t care about the lack of a banner headline. My game of chicken with the Times was over, and I felt like I had won.



Outgoing Attorney General John Ashcroft watches an honor guard in the Great Hall of the Justice Department in Washington on Dec. 10, 2004. Photo: Pablo Martinez Monsivais/AP

## 4 THE WAR ON THE PRESS

The impact of the story was immediate and explosive. George W. Bush was forced to confirm the existence of the program, even as he called the leak of information about it a “shameful act.” The administration quickly ordered an investigation, which was handed over to a grand jury. Teams of FBI agents were soon trying to hunt down our sources.

Congress was outraged that the Bush administration had hidden the NSA program from all but a select handful of senior congressional leaders. The story ran the day the Senate was scheduled to vote on the

reauthorization of the Patriot Act. Saying the NSA program made a mockery of the Patriot Act, lawmakers forced the vote's delay. Both Republicans and Democrats vowed congressional investigations into the NSA program.

Lichtblau and I scrambled to follow up with more stories, including one based on the strange tip I had received to check out what had happened when Ashcroft was sick. We learned that it was a reference to a secret rebellion against the NSA program by Comey and other top Justice Department officials, which had been triggered during a showdown with the White House in Ashcroft's hospital room in March 2004.

After an unusually tight pre-publication embargo, "State of War" was published in the first week of January 2006, but not before the Bush administration tried to intervene. In his 2014 book, "Company Man: Thirty Years of Controversy and Crisis in the CIA," former CIA lawyer John Rizzo describes how he got a panicked call from a National Security Council staffer at the White House on New Year's Eve saying that it might be necessary to try to stop the publication of my book.

That night, then-White House Counsel Harriet Miers called Rizzo, suggesting that he call Sumner Redstone, chairman of Viacom, to get him to stop the publication of the book by Simon and Schuster. Rizzo says he had decided not to make the call.

Jack Romanos, chief executive of Simon and Schuster at the time, told me that other current and

**One former CIA officer recalls that managers in his unit warned employees not to read "State of War"; doing so, they were told, would be**

former government officials had also called, wanting to see the book before it was published. Simon and Schuster had refused.

**like committing treason.**

After it came out, the CIA was intensely angry about the book. One former CIA officer recalls that managers in his unit warned employees not to read “State of War”; doing so, they were told, would be like committing treason.

I did a series of TV interviews to publicize the book. Thanks to the line in the Times’s NSA story saying that the article had been held for a year at the Bush administration’s request, the story behind the story was naturally a hot topic. But each time I was asked about it, I simply said the Times had performed a public service by publishing the story, adding that I wouldn’t go into details about the paper’s internal deliberations. I wanted to keep the focus on the substance of the story itself. Interviewers weren’t always pleased with this. After a conversation with [Katie Couric on the “Today” show](#), I quietly told her I was sorry I couldn’t answer her question. “Yeah, bullshit,” she replied.

The Times also refused to explain the decision to hold the story, stonewalling media reporters and even the paper’s own public editor. “The New York Times’s explanation of its decision to report, after what it said was a one-year delay, that the National Security Agency is eavesdropping domestically without court-approved warrants was woefully inadequate,” wrote [Times Public Editor Byron Calame](#) in early 2006. “And I have had unusual difficulty getting a better explanation for readers, despite the paper’s repeated pledges of greater transparency. For the first time since I became public editor, the executive editor and the publisher have declined to respond to my requests for information about news-related decision-making.”

Several weeks later, I discovered that the Times hierarchy had been paying close attention to what I had been saying on my book tour about the paper's decision-making. Lichtblau, Taubman, and I were asked to make a special presentation to the Times board of directors about the NSA story. Over lunch, one of the board members leaned over to me and quietly told me they were very grateful for the way I had been handling myself on television.

Lichtblau and I [won a Pulitzer Prize](#) for our NSA stories. When the Times wins a Pulitzer, work in the main newsroom in New York stops at 3 p.m. on the day the prizes are officially announced, and the winners give brief speeches to the entire staff.

When it was my turn, I got up and looked around at the crowd. I felt awkward, unsure what to say. For months, I had secretly lived with the fear of being fired for insubordination; now I was being honored for the same thing, by the same people. I decided to leave that issue alone for the day. I looked over at Keller and Sulzberger and said, "Well, thanks. You guys know what happened, how tough this was."

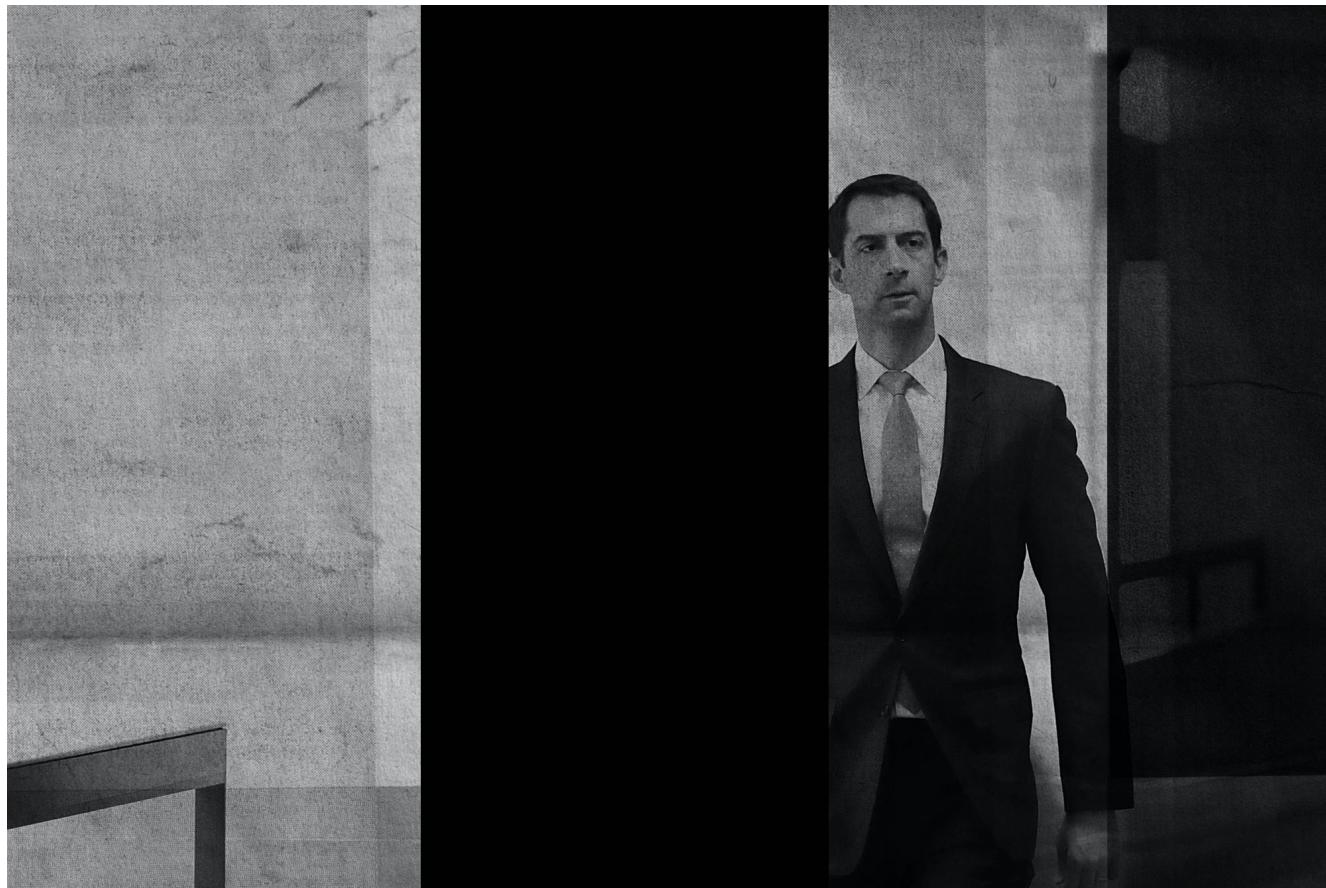
Meanwhile, the political and legal reverberations from the NSA story were unlike those from any story I had ever done, and they continued to build. The story quickly led to protests and congressional hearings, lawsuits against the government and telecommunications companies, and calls for the creation of a new Church Committee.

Fearful that the investigative floodgates were about to open, the Bush administration launched an aggressive campaign to counter the mounting criticism. In January 2006, it issued a "[white paper](#)" laying out its arguments for why the program was legal and, behind the scenes, began lobbying leading members of Congress to stem calls for a major congressional inquiry. But the White House knew the NSA program was on thin ice, particularly after a federal judge sided with

the American Civil Liberties Union in a lawsuit and declared the program unconstitutional.

White House anger at the New York Times for publishing the story grew. In May, Gonzales [told ABC](#) that the government could prosecute journalists for publishing classified information. He clearly had us in mind when he said it.

“There are some statutes on the book which, if you read the language carefully, would seem to indicate that that is a possibility,” Gonzales said.



Senate Intelligence Committee member Sen. Tom Cotton, R-Ark., arrives for a closed-door committee meeting in the Hart Senate Office Building on Capitol Hill in 2017. Photo: Chip Somodevilla/Getty Images

**Lichtblau and I now had lots of sources willing to talk, and we soon discovered that the CIA was spying on the private banking records of**

thousands of Americans and others around the world through the SWIFT banking system. Secret access to SWIFT meant the CIA could track the banking transactions of Americans and others without court approval.

Lichtblau had nicknamed one source “Death Wish” because during each interview he would say that he couldn’t talk about the SWIFT operation, and then would proceed to talk about it.

This time, Lichtblau took the lead and was far more aggressive on the story than I was. I was burned out from the fight over the NSA story, and I wasn’t sure I was ready for another battle with the government over publication. I started to lose my nerve, privately suggesting to Lichtblau that we should delay the SWIFT story. Briefly panicking, I even thought about pulling my byline from the story.

Fortunately, Lichtblau called me on it. I quickly recovered from my malaise, and we finished the story.

The editors at the Times, no doubt embarrassed by the way they had handled the NSA story, were now aggressively pushing us to do the SWIFT story and others. The Bush administration made only a halfhearted effort to block the SWIFT story. Treasury Secretary John Snow asked Keller not to run it, and a few other officials weighed in, but that was about it.

Yet it was after the SWIFT story’s publication in June 2006 that the real onslaught against us began, led by conservatives in Congress and around the country who accused us of being repeat offenders harming national security.

Lichtblau and I had faced a storm of criticism after the NSA story; now the outcry grew far more intense. Right-wing groups organized hate mail campaigns against us and staged **small but noisy protests** outside the Washington bureau and the Times building in New York.

Conservative pundits and members of Congress went on television calling for Keller, Lichtblau, and me to be punished. Tom Cotton, then an Army officer in Iraq, wrote a letter to the Times saying that Lichtblau, Keller, and I should be jailed for harming national security. The Times didn't publish the letter, but [it was picked up](#) in the right-wing online universe of the time, and Cotton shot to fame in conservative circles as a result. He was later elected to the Senate as a Republican from Arkansas and soon may be named director of the CIA.

Our notoriety also brought out conspiracy theorists and people who claimed the government was after them. Returning to the Washington bureau one day after lunch, I saw a lone man standing on the sidewalk in front of the building's entrance, holding a sign claiming government harassment. "Hello, James," he said as I approached. "I've been waiting for you."

More ominously, the Bush administration now had two major leak investigations underway – one into the NSA story in the New York Times, and the other into the Iran story I had included in "State of War." Working with federal grand juries in Alexandria, FBI agents were starting to interview people I knew.

**When my lawyers called the Justice Department, prosecutors refused to assure them that I was not a "subject" of their investigation. That was bad news.**

Then there was a long lull, lasting more than a year. I thought the administration had decided not to take any action.

But in August 2007, I found out that the government hadn't forgotten about me. Penny called to tell me that a FedEx envelope had arrived from the Justice Department. It was a letter saying the DOJ was conducting a criminal investigation into "the unauthorized disclosure of classified information" in "State of War." The letter was apparently sent to satisfy the requirements of the Justice Department's internal guidelines that lay out how prosecutors should proceed before issuing subpoenas to journalists to testify in criminal cases.

The Bush administration had evidently made a strategic decision not to go after the New York Times for our NSA stories. They apparently didn't want a constitutional showdown with the newspaper. So instead, they were coming after me for what I had written in my book. I realized they were trying to isolate me from the Times. I later learned that the Justice Department and FBI had investigated a wide range of information included in several different chapters in my book before settling on the chapter that included the CIA-Iran story.

Simon and Schuster agreed to pay for my legal defense until 2011, when my lawyers, Joel Kurtzberg and David Kelley of Cahill Gordon & Reindel, agreed to continue to handle the case pro bono. The New York Times did not pay any of my legal bills.

When my lawyers called the Justice Department about the letter I had received, prosecutors refused to assure them that I was not a "subject" of their investigation. That was bad news. If I were considered a "subject," rather than simply a witness, it meant the government hadn't ruled out prosecuting me for publishing classified information or other alleged offenses.

In January 2008, the Justice Department subpoenaed me to testify before a federal grand jury. I refused to comply, and my lawyers moved to quash the subpoena.



Former CIA officer Jeffrey Sterling leaves the Alexandria Federal Courthouse on Jan. 26, 2015, in Alexandria, Virginia. Photo: Kevin Wolf/AP

Meanwhile, the government started an intense and secretive investigation to try to identify my sources. Several people subpoenaed to testify before the grand jury told me that prosecutors showed them phone records of calls between us and demanded to know what we had been talking about. The government eventually disclosed that they had not subpoenaed my phone records, but had subpoenaed the records of people with whom I was in contact. The government obtained my credit reports, along with my credit card and bank records, and hotel and flight records from my travel. They also monitored my financial transactions

with my children, including cash I wired to one of my sons while he was studying in Europe.

One of the most egregious government plans to target me was not directly related to the leak investigation into “State of War.” But it apparently was under consideration at the same time I was fighting the government’s efforts to force me to testify.

I have obtained evidence of an FBI agent discussing plans to ambush a meeting that the FBI thought was about to occur between a source and me in 2014. The evidence shows that the ambush plan was reviewed by senior Justice Department officials, who insisted the FBI make certain I would not be present when they arrested my source at the meeting. The evidence also reveals that the FBI was planning ways I could be delayed or diverted from the meeting at the last minute so they could arrest the source without me there.

No such meeting occurred, so the FBI’s planned ambush was never conducted. But when I was later told about the FBI plan, it made me realize the degree to which I had become a focus of government investigators. The FBI declined to comment.

In another recent incident that gave me chilling insight into the power of government surveillance, I met with a sensitive and well-placed source through an intermediary. After the meeting, which occurred a few years ago in Europe, I began to do research on the source. About an hour later, I got a call from the intermediary, who said, “Stop Googling his name.”

In January 2008, after I received the first subpoena related to the CIA-Iran story in “State of War,” a series of procedural motions prolonged the fight over whether I would be forced to testify before the grand jury until after the 2008 presidential election.

I thought Barack Obama's election would end the case. U.S. District Judge Leonie Brinkema seemed to think so, too. In July 2009, she issued a brief ruling noting that the grand jury in the case had expired, meaning my subpoena was no longer valid. I was surprised when Obama's Justice Department quickly told Brinkema they wanted to renew the subpoena.

In hindsight, this was one of the earliest signals that Obama was determined to extend and even expand many of Bush's national security policies, including a crackdown on whistleblowers and the press. Ignoring the possible consequences to American democracy, the Obama administration began aggressively conducting surveillance of the digital communications of journalists and potential sources, leading to more leak prosecutions than all previous administrations combined.

My case ground on for the next few years. It moved slowly because each time the administration came after me through some procedural motion or new subpoena, Brinkema sided with me. Her rulings in my favor meant that I was never actually ordered to testify before the grand jury.

I kept thinking the administration would get the message from Brinkema and abandon the case. Instead, the Obama administration charged Jeffrey Sterling, the former CIA officer, for allegedly leaking information used in the CIA-Iran story.



U.S. Attorney General Eric Holder on Dec. 4, 2014, in Cleveland, Ohio. Photo: Angelo Merendino/Getty Images

Sterling was indicted in December 2010 and arrested in January 2011. The Justice Department subpoenaed me again, this time to testify at his trial.

Brinkema quashed that subpoena, too; once again, I thought I was off the hook. But just days before the trial was to begin, the Justice Department appealed. Obama administration prosecutors told the appeals court that Brinkema's ruling should be overturned because there was no such thing as a reporter's privilege in a criminal case. The appeals court accepted that argument, reversing Brinkema and ordering me to testify.

The government's rationale transformed my case into a showdown over press freedom in the United States. I felt that I had no choice but to appeal to the Supreme Court. Some outside media lawyers made it clear

that they didn't want me to do that because it might lead to a bad ruling from a conservative majority.

That debate became moot in 2014, when the Supreme Court refused to take up the case. That allowed the appeals court ruling to stand, leaving the legal destruction of a reporter's privilege in the 4th Circuit as Obama's First Amendment legacy.

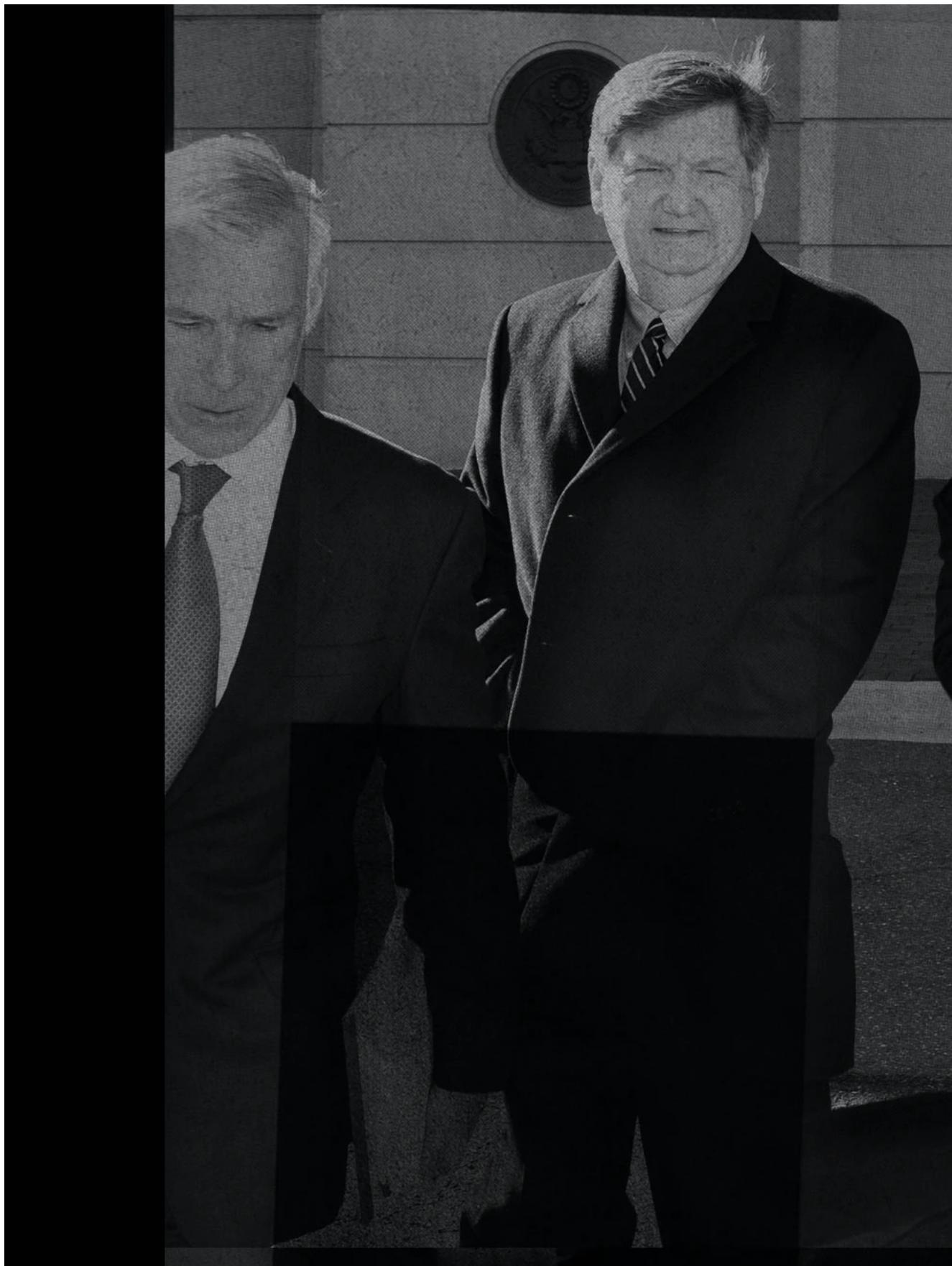
But the government's landmark legal victory came at a cost to the administration and particularly to Obama's attorney general, Eric Holder. For years, my lawyers and I had waged our legal campaign mostly alone with little fanfare, but as the case barreled toward a climax, the news coverage and publicity reached a fever pitch.

With the surge in media attention came added pressure on Holder, and he finally began to back down. He said that as long as he was attorney general, no reporter would go to jail for doing their job. He also modified the Justice Department guidelines that defined when the government would seek to compel the testimony of journalists in leak investigations. (Donald Trump's Justice Department is now widely expected to weaken those guidelines, making it easier to go after reporters.)

But even though Holder was making conciliatory public statements, the federal prosecutors directly involved in my case kept fighting hard. At one point, Holder hinted that the Justice Department and I were about to strike a deal, when in fact the prosecutors and my lawyers hadn't negotiated any deal at all. Behind the scenes, there seemed to be a war going on between Holder and the prosecutors, who were angry at what they perceived as Holder undercutting them. The prosecutors had repeatedly told the court that they needed my testimony to make their case against Sterling. Holder, after supporting their aggressive approach for years, had suddenly reversed direction under public pressure. I was caught in the middle.

Finally, in late 2014, we saw the first signs that the prosecutors were softening their stance. They demanded my appearance at the January 2015 pretrial hearing in Alexandria to determine the scope of my possible testimony in Sterling's trial. But unlike the previous subpoenas, this new one sought my limited testimony and did not demand that I identify confidential sources.

Then, as I sat in the conference room with my lawyers waiting for the hearing to start, the prosecutors launched a last-minute offensive. They said they wanted me to get on the witness stand and point out which passages in my book were based on classified information and confidential sources. I refused.



James Risen, center, leaves the federal courthouse in Alexandria, Virginia, on Jan. 5, 2015.  
Photo: Cliff Owen/AP

As I took the stand at the 2015 hearing, I found it hard to contain my frustration and disgust. “I am not going to provide the government with information that they seem to want to use to create a mosaic to prove or disprove certain facts,” I told Brinkema.

The lead prosecutor, James Trump (no apparent relation to Donald), did not ask who my sources were or what they’d told me. Instead, he asked again whether I would refuse to identify my sources, even if it meant going to jail.

I told him I would.

Trump then turned to questions [I had already answered in court filings](#), asking whether I had indeed relied on confidential sources and trying to confirm that I had spoken to Sterling for an unrelated 2002 New York Times article. He wanted me to answer them aloud, in open court.

I was defiant and refused to answer basic questions.

Brinkema began to lose patience with me. I asked for a break to talk with my lawyers.

I returned to the witness stand and answered a few more routine questions. Trump soon announced that he had nothing more for me. In the end, the prosecutors had backed down and followed Holder’s instructions.

It was all over, almost before I realized it. I walked out of the court and drove straight home.

I believe my willingness to fight the government for seven years may make prosecutors less eager to force other reporters to testify about their sources. At the same time, the Obama administration used my case to destroy the legal underpinnings of the reporter’s privilege in the 4th Circuit, which means that if the government does decide to go after

more reporters, those reporters will have fewer legal protections in Virginia and Maryland, home to the Pentagon, the CIA, and the NSA, and thus the jurisdiction where many national security leak investigations will be conducted. That will make it easier for Donald Trump and the presidents who come after him to conduct an even more draconian assault on press freedom in the United States.

The battles over national security reporting in the years after 9/11 have yielded mixed results. In my view, the mainstream media has missed some key lessons from the debacle over WMD reporting before the war in Iraq. Times reporter Judy Miller became an easy scapegoat, perhaps because she was a woman in the male-dominated field of national security reporting. Focusing on her made it easier for everyone to forget how widespread the flawed pre-war reporting really was at almost every major media outlet. “They wanted a convenient target, someone to blame,” Miller told me recently. The anti-female bias “was part of it.” She notes that one chapter in her 2015 memoir, “[The Story: A Reporter’s Journey](#),” is titled “Scapegoat.”

Since then, I believe the Times, the Washington Post and other national news organizations have sometimes hyped threats from terrorism and weapons of mass destruction. The exaggerated reporting on terrorism, in particular, has had a major political impact in the United States and helped close off debate in Washington over whether to significantly roll back some of the most draconian counterterrorism programs, like NSA spying.

But overall, I do believe that the fight inside the Times over the NSA story helped usher in a new era of more aggressive national security reporting at the paper. Since then, the Times has been much more willing to stand up to the government and refuse to go along with White House demands to hold or kill stories.

The greatest shame of all is that [Jeffrey Sterling](#) was convicted and sentenced to 42 months in prison.

## Update: April 2, 2018

*This story has been updated to add the name of a New York Times researcher who worked on the NSA story.*

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